

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/714,236
Confirm. No.: 6961
Inventor: Christopher J. Stone et al.
Filing Date: November 14, 2003
Title: Method and Apparatus for Simultaneous Display of Multiple Audio/Video Programs Transmitted Over a Digital Link
Examiner: Senfi, Behrooz M
Art Unit: 2621
Atty. Docket No.: BCS03178

Mail Stop Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL CONFERENCE BRIEF

Please review the Final Rejection mailed on November 1, 2007. No amendments are being filed with this Brief. This Brief is being filed with a Notice of Appeal and required fee. The review requested is attached hereto and is not more than five (5) pages. A Petition for a Two (2) Month Extension is also being submitted herewith so this Brief may be filed on or before April 1, 2008.

REMARKS

In the Final Office Action mailed on November 1, 2007, the Examiner rejected claims 27 and 28 under 35 U.S.C. 101 as being directed toward non-statutory subject matter and rejected claims 1-28 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,847,771 to Cloutier et al.

In maintaining the rejection of claims 27 and 28, the Examiner has failed to read the claims as amended on August 23, 2007. Specifically, Applicant now claims a “physical computer readable medium” in claims 27 and 28. Applicant asserts that this is permissible subject matter under the guidelines published in the Official Gazette on November 22, 2005 (“When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases ...”). In maintaining this rejection, the Examiner asserts that the invention is directed toward a “computer readable carrier.” This, however, is not what is presently claimed in claims 27 and 28.

Independent claims 1, 23 and 27 recite, *inter alia*, “augmenting said at least one non-composited digital transport stream with control information.” The Examiner asserts that this limitation is taught in Cloutier et al. in col. 3, lines 30-35 and col. 14, line 66 – col. 15, line 24. This is incorrect.

In col. 3, lines 30-35, Cloutier et al. describe outputting two sets of video data so that a single frame can be generated displaying those two sets of data. Nowhere in this citation is the phrase “control information,” even used. There is no combining of non-composited digital transport stream data with control information as claimed in claims 1, 23 and 27.

In response to this argument, the Examiner asserts that Cloutier teaches a controller in column 3, lines 32 and 38. Applicant agrees, but notes that a controller is not the same as control information. The Examiner is apparently arguing that Cloutier et al. teach augmenting digital transport stream data with a controller. Applicant asserts that this is not possible and not what is taught by Cloutier et al.

In addition, col. 14, line 66 – col. 15, line 24 discuss some of the attributes of a Packetized Elementary Stream (PES) and contents of some of the packets. While control data is included in some of the packets, it is not “augmented” to the transport stream in col. 14, line 66 – col. 15, line 24. Instead, the control data is already existent in the transport stream of Cloutier et al.

In addition, Cloutier et al. state that the control data used to generate picture-in-picture displays is separate from and distinct from the content data. In particular the control data comes from the user via controller 68 that then controls a demultiplexer and ATM selector. *See* col. 9, lines 37-39. Since Cloutier et al. keep this control data separate from the content data, it follows that this data is not augmented to non-composited digital transport stream as alleged by the Examiner.

With respect to independent claims 12, 25 and 28, the Examiner asserts that “decoding” is shown in Fig. 5 of Cloutier et al. The Examiner never addresses where the “extracting control information from said at least one non-composited digital transport stream” where the control information relates to “simultaneous display [of a] plurality of AV programs.” As noted above, Cloutier et al. generate PIP displays from data from controller 68 which data is kept separate from, and therefore is not extracted from, the video data.

In response to this argument, the Examiner asserts Cloutier et al.'s MPEG DEMUX 100, as described in column 3, lines 32-35, extracts information from the inputted digital transport stream and causes simultaneous displaying of a plurality of video programs. Applicant disagrees. The functionality of MPEG DEMUX 100 is described in column 13, line 28 - column 14, line 4. MPEG DEMUX 100 does extract control data such as transport layer header information and the PAT and PMT. However, none of this data is used to cause simultaneous display of a plurality of AV programs as claimed.

For at least these reasons, the Examiner's rejections should be withdrawn and this application allowed to issue.

Respectfully submitted,

Christopher J. Stone

_____/Benjamin D. Driscoll/
Benjamin D. Driscoll
Reg. No. 41,571
Motorola, Inc.
101 Tournament Drive
Horsham, PA 19044
P (215) 323-1840
F (215) 323-1300

____March 31, 2008____
Date